



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

John J. Debender, M.D.

Respondent Name

Texas Mutual Insurance Company

MFDR Tracking Number

M4-11-2917

Carrier's Austin Representative

Box Number 54

MFDR Date Received

May 2, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "... WE RECEIVED A REQUEST FOR DESIGNATED DOCTOR APPOINTMENT..."

Amount in Dispute: \$650.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "... The requestor is a participating doctor in the Texas Star Network... Texas Mutual claim ... is in the same Network... DWC Rule 126.7 states in part, '... A doctor who has contracted with or is employed by an authorized workers' compensation health care network established under Chapter 1305, Insurance Code, (network doctor) may not perform a designated doctor examination, as those terms are used under Texas Workers' Compensation Act, for an employee receiving medical care through the same network.' DWC has not provided any waivers or exceptions to this proscription. Therefore, no payment is due."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 19, 2011	Designated Doctor Examination	\$650.00	\$650.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §130.6, effective January 1, 2007, 33 TexReg 6368, sets out the procedures for Designated Doctor examinations for maximum medical improvement and impairment ratings.
3. 28 Texas Administrative Code §134.1, effective March 1, 2008, 33 TexReg 364, addresses medical reimbursement for this date of service.

4. 28 Texas Administrative Code §134.204, effective March 1, 2008, 33 TexReg 364, sets out the fee guidelines for billing and reimbursement of division-specific services.
5. Texas Labor Code §408.0041, effective September 1, 2007, provides guidance for designated doctor examinations.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - CAC-B5 – Coverage/program guidelines were not met or were exceeded.
 - CAC-W1 – Workers compensation state fee schedule adjustment
 - CAC-45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.
 - 198 – Allowance was reduced as per contractual agreement.
 - 728 – This bill was reviewed/denied in accordance with your First Health Contract.
 - 788 – Texas Star Network physician may not perform DD exams for workers receiving care through the same network per Rule 126.7(a).
 - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 724 – No additional payment after a reconsideration of services.

Issues

1. Is the insurance carrier's reason for denial of payment supported?
2. What is the maximum allowable reimbursement (MAR) for the disputed services?
3. Is the requestor entitled to additional reimbursement?

Findings

1. The insurance carrier denied disputed services with the following claim adjustment reason codes:
 - CAC-B5 – "COVERAGE/PROGRAM GUIDELINES WERE NOT MET OR WERE EXCEEDED."
 - 198 – "ALLOWANCE WAS REDUCED AS PER CONTRACTUAL AGREEMENT."
 - 728 – "THIS BILL WAS REVIEWED/DENIED IN ACCORDANCE WITH YOUR FIRST HEALTH CONTRACT."
 - 788 - "TEXAS STAR NETWORK PHYSICIAN MAY NOT PERFORM DD EXAMS FOR WORKERS RECEIVING CARE THROUGH THE SAME NETWORK PER RULE 126.7(A)."

28 Texas Administrative Code §134.1 states,

- (b) Medical reimbursement for health care services provided to injured employees subject to a workers' compensation health care network established under Insurance Code Chapter 1305 shall be made in accordance with the provisions of Insurance Code Chapter 1305, **except as provided in subsections (c) [emphasis added] and (d) of this section.**
- (c) Examinations conducted pursuant to Labor Code §§408.004, **408.0041 [emphasis added]**, and 408.151 **shall be reimbursed in accordance with §134.204 [emphasis added]** of this chapter...

Texas Labor Code §408.0041 provides the authority of the Commissioner of the Division of Workers' Compensation to order a designated doctor examination. Further, subsection (h) of this statute states, "The insurance carrier shall pay for: (1) an examination required under Subsection (a)."

Review of the submitted documentation finds that the requestor was ordered to perform the designated doctor examination in question via EES-14 dated July 1, 2010. Therefore, the disputed services were provided pursuant to Texas Labor Code §408.0041(a). The insurance carrier's reason for denial of payment is not supported and shall be reviewed according to 28 Texas Administrative Code §134.204.

2. Per 28 Texas Administrative Code §134.204(j)(3), "The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The submitted documentation supports that the requestor performed an evaluation of Maximum Medical Improvement. Therefore, the correct MAR for this examination is \$350.00.

Per 28 Texas Administrative Code §134.204(j)(4), "The following applies for billing and reimbursement of an IR evaluation. ... (C)(ii) The MAR for musculoskeletal body areas shall be as follows. ... (II) If full physical evaluation, with range of motion, is performed: (-a-) \$300 for the first musculoskeletal body area." The

submitted documentation supports that the requestor provided an impairment rating, which included a musculoskeletal body part, and performed a full physical evaluation with range of motion of the left knee. Therefore, the correct MAR for this examination is \$300.00.

3. The total MAR for the disputed services is \$650.00. The insurance carrier paid \$0.00. A reimbursement of \$650.00 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$650.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$650.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	Laurie Garnes	January 22, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MFDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of this *Medical Fee Dispute Resolution Findings and Decision*, together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.